

Prosecuting and Disarming Domestic Violence Offenders Through Enforcement of Federal Gun Laws



Ryan Robinson, West Valley City Chief
Prosecutor

Sobering Domestic Violence Statistics

- In Utah, an average of two-thirds of domestic violence related deaths result from use of a firearm. [Utah Domestic Violence Council. "Domestic Violence Help & General Information" from 2008 to 2010. Accessed June 8, 2012. <<http://www.udvac.org/resourcesandpublicaitons.htm>>.]

Sobering Domestic Violence Statistics

- In Utah, 1 out of 3 domestic violence homicide perpetrators commit suicide, with 93% those perpetrators using a firearm. [Utah Department of Health Violence and Injury Prevention Program, Domestic Violence Fatalities in Utah, 2003-2008.]

Sobering Domestic Violence Statistics

- Domestic violence assaults involving a firearm are 23 times more likely to result in death than those involving other weapons or bodily force. [3.Linda E. Saltzman, et al., Weapon Involvement and Injury Outcomes in Family and Intimate Assaults, 267 JAMA, 3043-3047 (1992).]



If you're convicted of domestic violence, you can't own a gun.

For the past several years, one-third of all female murder victims were killed by their intimate partners. In 69% of these cases, the murder weapon was a gun. That's why anyone convicted of domestic violence, or subject to a domestic violence restraining order, can't own, buy, use or possess a gun under federal law.

If they do, they can go to federal prison. If you have questions about the federal firearms laws, call 1-800-ATF-GUNS. If you or someone you know is being abused, call 1-800-799-SAFE or your local law enforcement.

PROJECT ★ ★ ★ ★
SAFE ★ ★ ★ ★
NEIGHBORHOODS ★ ★ ★ ★
Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives

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SAFE ★ ★ ★ ★
NEIGHBORHOODS ★ ★ ★ ★



TRUE OR FALSE:

Those persons convicted of crimes involving domestic violence are restricted by federal law from possessing a firearm?



False.

Only those whose conviction includes the
“use of force” in the elements of the crime.

Court recording / reporting DV convictions

Utah Code § 77-36-1 (4) lists sixteen (16) offenses plus a catch-all that can be DV if committed by one cohabitant against another.

Not all of those offenses, if convicted, make somebody a “restricted person” under federal firearms law.

Convictions must involve “**use or attempted use of physical force**” against a cohabitant. See 18 U.S.C. § 921(a)(33)(A).

Between federal definition of “intimate partner”.

United States v. Hays, 526 F.3d 674 (10th Cir. 2008).

18 U.S.C. § 921(a)(33)(A)

““[M]isdemeanor crime of domestic violence” means an offense that– (i) is a misdemeanor under Federal, State, or Tribal law; and...

(ii) “has, as an element, the **use or attempted use of physical force** ... committed by” by a person in any one of the following statuses against another...

- SO what are we really talking about?
- DV Assault

76-5-102(1) Assault

(1) Assault is:

(a) an attempt, with unlawful force or violence, to do bodily injury to another;

(b) a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or

(c) an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another.

TRUE OR FALSE:

Those persons convicted of assault - domestic violence are restricted by federal law from possessing a firearm?

- False.
- NOT UNLESS ITS SPECIFICALLY and ACCURATELY RECORDED

76-5-102(1) Assault

(1) Assault is:

(a) an attempt, with unlawful force or violence, to do bodily injury to another;

(b) a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or

(c) an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another.

We Aren't Sufficiently Specific in Our Recorded Convictions

- U of U study of 5738 DV Assault convictions showed only 3% recorded a subsection
- BCI has less than a 10% denial rate
- US Attorney almost never are able to file these cases

Not sufficient for BCI to make “physical force”
against intimate partner determination

76-5-102 (not sufficient)

or,

76-5-102(1) (not sufficient)

Needs to be

76-5-102(1)(a)

or,

76-5-102(1)(c)



The key is what is entered into CORIS.

That is what BCI gets (CORIS into UCJIS).

CORIS

Is now set up for “as to the specific subsection” as an amendment click/pull down menu.

So a charge of § 76-5-102(1) can be entered at entry of plea to a specific subsection.

When entering disposition out to the subsection, click “find violation” screen,

Then “assault*” or “76-5-102*” and click,

76-5-102(1)(a) or

76-5-102(1)(b) or

76-5-102(1)(c).

IN THE WEST VALLEY CITY JUSTICE COURT

STATE OF UTAH

3570 S. Constitution Blvd., West Valley City, Utah 84119 (801) 963-3590

JUDGEMENT AND SENTENCE

West Valley City

Plaintiff

vs.

Alex Cervantes

Defendant

DOB: 5/6/88

Case No. 111702999

Date 2-1-12

Judge KIS

Clerk D

Defense Counsel pro-se

Interpreter _____

The above defendant has either plead guilty (pg); no contest (nc); or been found guilty (fg) of the following offenses:

| | | | | | |
|----------|--------------------------|---------------------|---------------|----------------|----------------|
| pg/nc/fg | Viol. <u>ASSAULT DV.</u> | Fine \$ <u>100.</u> | Susp \$ _____ | Jail <u>60</u> | Susp. <u>2</u> |
| pg/nc/fg | Viol. <u>POSSESS</u> | Fine \$ _____ | Susp \$ _____ | Jail _____ | Susp _____ |
| pg/nc/fg | Viol. _____ | Fine \$ _____ | Susp \$ _____ | Jail _____ | Susp _____ |
| pg/nc/fg | Viol. _____ | Fine \$ _____ | Susp \$ _____ | Jail _____ | Susp _____ |

Above fines include any applicable surcharge(s) or mandatory fees.

Total fine

Restitution

Costs U.C.A. 78-32a-2 warrant

attorney

transport

Other

Total

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ 623.00.

Pay to _____ Court _____ Victim _____ Proof to court

*4 US 65
FG 2469521
THAT. w/ a
GUN
KICKED
KICKED
KICKED
KICKED*

WEST VALLEY CITY JUSTICE COURT
SALT LAKE COUNTY, STATE OF UTAH

| | | |
|-------------------|---|--------------------------------|
| WEST VALLEY CITY, | : | MINUTES |
| Plaintiff, | : | VIDEO HEARING |
| | : | SENTENCE, JUDGMENT, COMMITMENT |
| | : | |
| vs. | : | Case No: 121701802 MO |
| JAYSON DENSLEY, | : | Judge: KEITH L STONEY |
| Defendant. | : | Date: December 13, 2012 |

PRESENT

Clerk: courtnef
Defendant
Defendant pro se

DEFENDANT INFORMATION

Date of birth: July 8, 1985
Sheriff Office#: 303189
Video

Too Generic!

This case involves domestic violence.

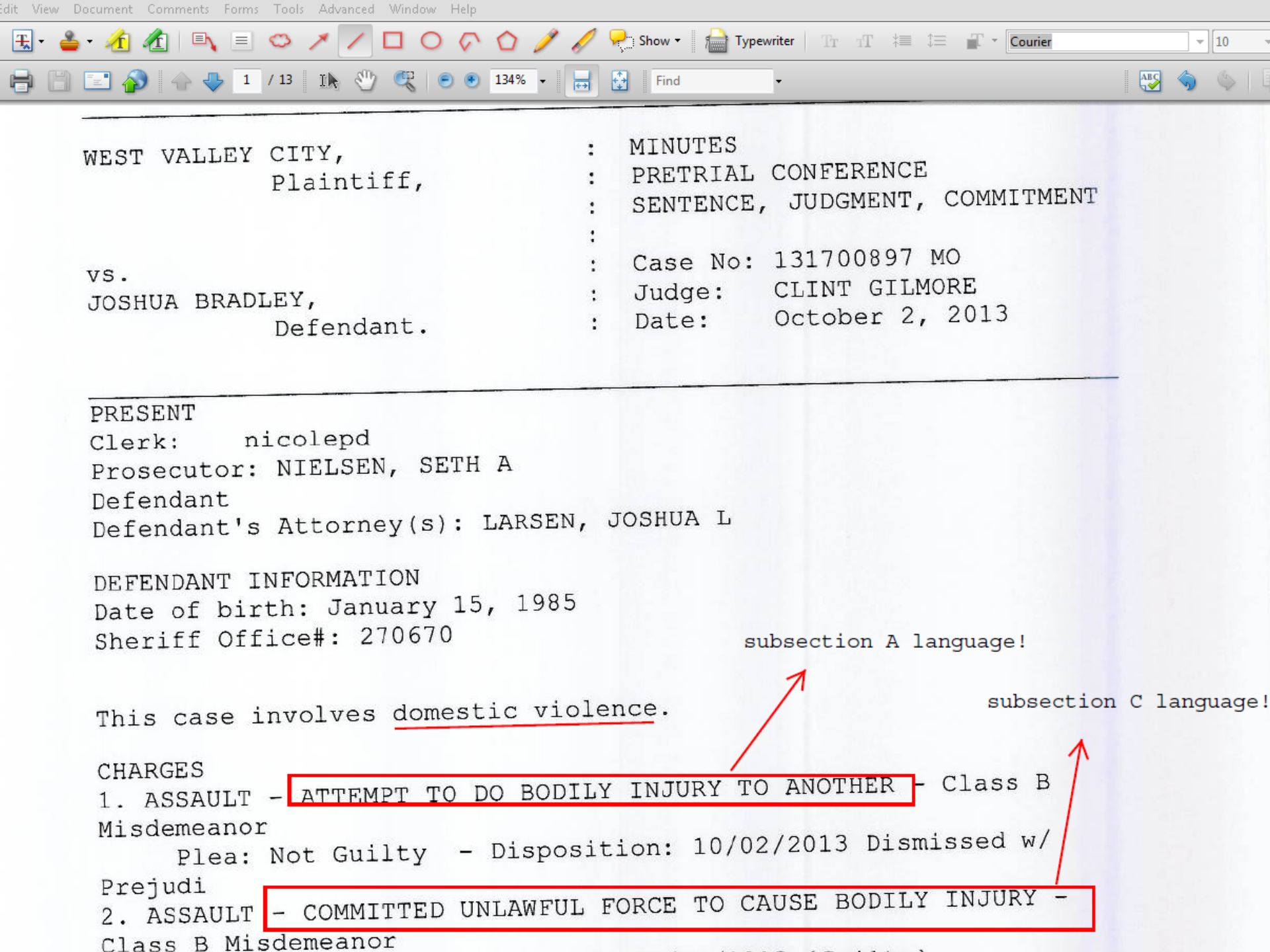
CHARGES

1. ASSAULT - Class B Misdemeanor

Plea: Guilty - Disposition: 08/15/2012 Guilty Plea

2. CRIMINAL MISCHIEF - Class B Misdemeanor

Plea: Guilty - Disposition: 08/15/2012 Guilty Plea



WEST VALLEY CITY,
Plaintiff,

vs.

JOSHUA BRADLEY,
Defendant.

: MINUTES
: PRETRIAL CONFERENCE
: SENTENCE, JUDGMENT, COMMITMENT
:
: Case No: 131700897 MO
: Judge: CLINT GILMORE
: Date: October 2, 2013

PRESENT

Clerk: nicolepd
Prosecutor: NIELSEN, SETH A
Defendant
Defendant's Attorney(s): LARSEN, JOSHUA L

DEFENDANT INFORMATION

Date of birth: January 15, 1985
Sheriff Office#: 270670

subsection A language!

This case involves domestic violence.

subsection C language!

CHARGES

1. ASSAULT - ATTEMPT TO DO BODILY INJURY TO ANOTHER - Class B
Misdemeanor

Plea: Not Guilty - Disposition: 10/02/2013 Dismissed w/

Prejudi

2. ASSAULT - COMMITTED UNLAWFUL FORCE TO CAUSE BODILY INJURY -

Class B Misdemeanor

Plaintiff,
vs.

Defendant.

INFORMATION

Case No. 141702014

Citation No. W10287356

Judge Clint Gilmore

The undersigned Affiant, based on Police Case Number 14I032248, under oath states on information and belief that the above named Defendant, in West Valley City, State of Utah, did commit the following crime(s):

COUNT #1: ASSAULT (DOMESTIC VIOLENCE) in violation of Utah Code Annotated §76-5-102, a class B misdemeanor, in that the Defendant, on or about 07/13/2014, did, as a cohabitant of the victim, (a) attempt, with unlawful force or violence, to do bodily injury to another; (b) threaten, accompanied by a show of immediate force or violence, to do bodily injury to another; or (c) commit an act, with unlawful force or violence, that caused bodily injury to another or created a substantial risk of bodily injury to another.

COUNT #2: INTERFERENCE WITH ARRESTING OFFICER in violation of Utah Code Annotated §76-8-305, a class B misdemeanor, in that the Defendant, on or about 07/13/2014, did have knowledge, or by the exercise of reasonable care should have knowledge, that a peace officer

IN THE THIRD DISTRICT COURT, STATE OF UTAH
SALT LAKE COUNTY, SALT LAKE DEPARTMENT

THE STATE OF UTAH (West Valley City),

Plaintiff,

vs.

ISRAEL FLORES-URIBE

DOB: 10/27/1992

DL: UT 192106664

S.O. NO: 359802

OTN: Not Booked

Defendant.

INFORMATION

Warrant/Release: Not Booked

Case No.

Judge

The undersigned Investigator, based on Police Case Number 14I019993, under oath states on information and belief that the above named Defendant, in the City of West Valley, State of Utah, did commit the following crime(s):

COUNT #1: ASSAULT (DOMESTIC VIOLENCE ENHANCEMENT) in violation of Utah Code Annotated §76-5-102(1)(a)&(c), a class A misdemeanor, in that the Defendant, on or about 05/02/2014, at 2900 West 4570 South #302, did:

(1)(a) attempt, with unlawful force or violence, to do bodily injury to another;

(1)(c) commit an act with unlawful force and violence that causes bodily injury to another or creates a substantial risk of bodily injury to another;

furthermore, the defendant was a cohabitant of the victim, and this offense is designated by law as a class B misdemeanor; and which offense was committed within five years after the defendant was convicted of a qualifying domestic violence offense; or the defendant was convicted of the domestic